



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: 4/1/2008
Placement: Set hearing
Estimated Tme: 1 hour (on 4/15/2008)
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director John Baker (805.568.2085)
Contact Info: Dianne Black, Development Services Director (805.568.2086)
SUBJECT: Montecito Resource Management Zone Development Plan Requirement Ordinance
Amendment

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: N/A

Other Concurrences: N/A

Recommended Actions:

That the Board of Supervisors set for hearing of April 15, 2008 to consider the recommendation of the Montecito Planning Commission and:

- A. Adopt findings for approval of the proposed ordinance (Attachment A);
- B. Find that the adoption of this ordinance is categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B); and
- C. Adopt an Ordinance (Case No. 08ORD-00000-00002) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

Summary Text:

Proposed structures located within the Resource Management Zone (RMZ) in the Montecito Community Plan area currently only require, in addition to approval by the Montecito Board of Architectural Review, the issuance of a staff-level Land Use Permit unless:

- The proposed structure is 20,000 or more square feet in gross floor area or is an attached or detached addition that together with existing structures on the same lot will total 20,000 square feet or more in gross floor area, or
- A discretionary permit (e.g., a Conditional Use Permit) is otherwise required.

However, proposed structures located within the RMZ outside the Montecito Community Plan area

require the approval of a Development Plan in all instances before a Land Use Permit or Zoning Clearance may be issued.

This ordinance amendment, if adopted would revise the Montecito Land Use and Development Code to require all structures to be permitted with a Development Plan, consistent with the rest of the County.

Shifting from a Land Use Permit to a Development Plan requirement will provide for discretionary analysis of applications for structures which will be reviewed in compliance with the requirements of the California Environmental Quality Act. This will also shift the jurisdiction from the Director to the Montecito Planning Commission who will be the review authority (decision-maker) for all development plan applications in the RMZ area. This will potentially affect the future permit processing for 113 privately held parcels zoned RMZ.

Background:

Through the adoption of the Montecito Community Plan in 1991 a large portion of the planning area north of Mountain Drive was designated Mountainous Area due to such factors as:

- Reduced fire fighting capability in a designated high fire hazard area.
- Steep slopes within a watershed area.
- Constrained traffic circulation.
- Presence of chaparral and dense vegetation.
- Desire to protect the open land characteristics including the mountain backdrop that was seen as a community and regional asset.

Companion to this designation under the Community Plan was the zoning of this area to RMZ. The purpose and intent of the RMZ is to protect lands that are unsuited for intensive development, limit development because of extreme fire hazards, minimum services, and/or environmental constraints, encourage the preservation of these areas for uses including grazing, scientific and educational study, and only allow for limited residential uses. This zone is applied to land that exhibits one or more of the following criteria:

- Slopes that exceed 40 percent.
- Valleys surrounded by slopes that exceed 40 percent.
- Isolated table lands surrounded by slopes that exceed 40 percent.
- Areas with outstanding resource values (e.g., environmentally sensitive habitat areas, watersheds)

On August 29, 2007, at the request of the Montecito Planning Commission, the Planning and Development Department conducted a workshop with the Montecito Planning Commission and the Montecito Board of Architectural Review regarding the rules and regulations that apply to property zoned RMZ, and the challenges that the Montecito Planning Commission and the Montecito Board of Architectural Review face in reviewing applications for development located in the RMZ area. This discussion highlighted the sensitivity of the RMZ area and the fact that a ministerial permit process may be unsuited for protecting the area from inappropriate development.

At this workshop Planning and Development staff presented information regarding the number of developed versus undeveloped parcels in the RMZ area; this information is summarized in the table below.

| RMZ Parcels | Private Ownership | Public Ownership | Total |
|---------------------|--------------------------|-------------------------|--------------|
| Developed Parcels | 50 | 1 | 51 |
| Undeveloped Parcels | 63 | 41 | 104 |
| Total | 113 | 42 | 155 |

During this workshop, members of the Montecito Planning Commission expressed support for amending the Montecito Land Use and Development Code to require the approval of a Development Plan for all proposed structures located in the RMZ, consistent with the remainder of the County.

On January 16, 2008, the Montecito Planning Commission held a public hearing on the proposed amendment. During this hearing there was testimony from members of the public who felt that applications that were currently being reviewed should be excused from the Development Plan requirement. Additionally, certain people felt that requiring a Development Plan for all structures regardless of the size of the structure was overly burdensome and that at a minimum the ordinance should contain exemptions for minor development.

In regards to this last item Planning and Development staff explained to the Montecito Planning Commission that even with the adoption of the ordinance, minor development could still be permitted at the Department level through the use of the "as built" Development Plan and Substantial Conformity Determination processes. The "as built" Development Plan process allows the Director to approve Development Plans for structures that were built prior to the requirement to obtain a Development Plan. Once the "as built" Development Plan is approved, then minor additions may be found to substantially conform to the Development Plan and permitted with only a Land Use Permit

At the close of the public hearing the Montecito Planning Commission declined to make any revisions to the ordinance amendment, and by a unanimous vote, recommended that your Board approve Case No. 08ORD-00000-00002 amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code as shown in Attachment C.

Please refer to Attachment D, Montecito Planning Commission staff report for further background information.

Fiscal and Facilities Impacts:

Budgeted: Yes.

Fiscal Analysis:

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-280 of the adopted Planning and Development Department's budget for fiscal year 2007-08. There are no facilities impacts.

Staffing Impact(s):

| Legal Positions: | FTEs: |
|-------------------------|--------------|
| 0 | 0 |

Special Instructions:

1. The Planning and Development Department will satisfy all noticing requirements.

2. The Clerk of the Board will send a copy of the signed and numbered ordinance and minute order to the Planning and Development Department, attention Noel Langle.

Attachments:

- A. Findings
- B. Notice of Exemption
- C. Ordinance (Case No. 08ORD-00000-00002)
- D. 1/16/2008 Montecito Planning Commission report (w/o attachments)

Authored by:
Noel Langle (805.568.2067)

ATTACHMENT A FINDINGS

CASE NO. 08ORD-00000-00002

The following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to the Montecito Land Use and Development Code, and the Board of Supervisors shall adopt the following findings in order to approve a text amendment to the Montecito Land Use and Development Code, in compliance with Section 35.494.060 - Findings Required for Approval of Amendment:

1. The request is in the interests of the general community welfare.

The proposed ordinance amendment is in the interest of the general community welfare since the amendment will allow for the discretionary analysis, including review in compliance with the California Environmental Quality Act, of projects proposed in the Resource Management Zone area of the Montecito Community Plan. Discretionary review is appropriate in this area given the sensitivity of the area that results from the steep topography, habitat and watershed value, and that this area provides a highly scenic backdrop to the community of Montecito and the region in general. This increased level of review will ensure that the purpose and intent of the RMZ zone will be fully implemented such that community values, environmental quality, and the public health and safety will not be compromised.

2. The request is consistent with the Comprehensive Plan and applicable Community Plans, the requirements of State planning and zoning laws, and the Montecito Land Use and Development Code.

Adoption of the proposed ordinance amendment will only change the permitting process from a Land Use Permit to a Development Plan, with a concurrent change in jurisdiction from the Director to the Montecito Planning Commission. This will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan and the Montecito Community Plan. In order to approve any Development Plan it still must be found consistent with the Comprehensive Plan and the Montecito Community Plan.

The proposed ordinance amendment is consistent with the remaining portions of the Montecito LUDC that would not be revised by this amendment. In order to approve a Development Plan the review authority still must determine that the project is consistent with the whole of the Montecito LUDC.

Therefore, this amendment may be found consistent with the Comprehensive Plan and the Montecito Community Plan, the requirements of State Planning and Zoning Laws, and the Montecito Land Use and Development Code.

3. The request is consistent with good zoning and planning practices.

The proposed amendment is consistent with sound zoning and planning practices to regulate land uses for the overall protection of the environment and community values. As discussed above in Finding 2, the amendment is consistent with the Comprehensive Plan and Community Plans, and the County Land Use and Development Code.

ATTACHMENT B: NOTICE OF EXEMPTION

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Noel Langle, Senior Planner
Planning and Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County guidelines for the implementation of CEQA.

APN(s): Not applicable.

Case No.: 08ORD-00000-00002

Location: The proposed ordinance amendment would apply solely to the unincorporated areas of Santa Barbara County within the inland portion of the Montecito Planning Area.

Project Title: Resource Management Zone Development Plan Requirement Ordinance Amendment

Project Description: 08ORD-00000-00002 proposes to amend Section 35.422.030 (Resource Protection Zone Allowable Land Uses), Section 35.472.080 (Development Plans) and Section 35.472.110 (Land Use Permits), of Section 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code.

This amendment would revise the existing regulations to require that a Development Plan be approved for all structures instead the existing language that only requires the approval of a Development Plan for structures when the proposed is 20,000 or more square feet in gross floor area or is an attached or detached addition that together with existing structures on the same lot will total 20,000 square feet or more in gross floor area, and a discretionary permit (e.g., a Conditional Use Permit) is otherwise required. The draft ordinance also proposes to move the special findings required for approval of Land Use Permits for swimming pools and water storage tanks on sites zoned RMZ from Section 35.472.110 (Land Use Permits) to Section 35.472.080 (Development Plans) so that these findings are made coincident with the approval of the Development Plan.

Exempt Status: (Check one)

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect Section 15061(b)(3)

Cite specific CEQA Guideline Section: Section 15061(b)(3), the general rule exemption, states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment that the activity is not subject to CEQA.

Reasons to support exemption findings: Adoption of the proposed ordinance amendment will only change the permitting process from a Land Use Permit to a Development Plan, with a concurrent change in jurisdiction from the Director to the Montecito Planning Commission. Additionally, the

amendment will allow for the discretionary analysis, including review in compliance with the California Environmental Quality Act, of projects proposed in the Resource Management Zone area of the Montecito Community Plan. Therefore, no significant environmental impacts are expected to result as a consequence of this ordinance revision.

Department/Division Representative

Date

Acceptance Date (date of final action on the project): _____

Date Filed by County Clerk: _____

Note: A copy of this form must be posted at Planning and Development six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.

Distribution: (for posting six days prior to action, and posting original after project approval)

Hearing Support Staff
Project file

ATTACHMENT C: ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-2, THE SANTA BARBARA COUNTY MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE, BY AMENDING SECTION 35.422.030, RESOURCE PROTECTION ZONE ALLOWABLE LAND USES, OF CHAPTER 35.422, RESOURCE PROTECTION ZONES, SECTION 35.472.080, DEVELOPMENT PLANS, OF CHAPTER 35.472, PERMIT REVIEW AND DECISIONS, AND SECTION 35.472.110, LAND USE PERMITS, OF CHAPTER 35.472, PERMIT REVIEW AND DECISIONS, TO REQUIRE THE APPROVAL OF A DEVELOPMENT PLAN FOR ALL DEVELOPMENT LOCATED ON LOTS ZONED RESOURCE MANAGEMENT.

Case No. 08ORD-00000-00002

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.422.030.C, Development Plan approval required, of Section 35.422.030, Resource Protection Zone Allowable Land Uses, of Chapter 35.422, Resource Protection Zones, to read as follows:

- C. Development Plan approval required.** Final Development Plan approval in compliance with Section 35.472.080 (Development Plans) is required prior to the approval of a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) or the issuance of a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances) for all development, including grading.

SECTION 2:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.422.030.E, Accessory Structures and Uses, of Section 35.422.030, Resource Protection Zone Allowable Land Uses, of Chapter 35.422, Resource Protection Zones, to read as follows:

- E. Accessory Structures and Uses.** Accessory structures and uses that are customarily incidental to the primary use allowed by Table 2-4 (Allowed Land Uses and Permit Requirements for Resource Protection Zone) are not allowed except as follows:
- 1. Swimming Pools and Water Storage Tanks.** Swimming pools and water storage tanks shall be approved or conditionally approved as accessory structures in compliance with Section 35.472.080 (Development Plans).

SECTION 3:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to add a new Subsection 5, Additional findings required for Preliminary or Final Development Plans for sites zoned RMZ (Resource Management Zone) to Subsection E, Findings required for approval, of Section 35.472.080, Development Plans, of Chapter 35.472, Permit Review and Decisions, to read as follows:

- 5. Additional findings required for Preliminary or Final Development Plans for sites zoned RMZ (Resource Management Zone).** A Preliminary or Final Development Plan application that includes a proposed swimming pool(s) and/or a water storage tank(s) shall be approved or conditionally approved only if the review authority first makes all of the following findings:
- a. The development of the swimming pool(s) and/or water storage tank(s) will require only minimal alteration of the topography.
 - b. The development of the proposed swimming pool(s) and/or water storage tank(s) will not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact on downstream water courses or water bodies.
 - c. The development of the proposed swimming pool(s) and/or water storage tank(s) will not cause any significant adverse impact on environmentally sensitive habitat areas, plant species, or biological resources.
 - d. The proposed swimming pool(s) and/or water storage tank(s) will be screened from public view.

SECTION 4:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to delete Subsection 2, Additional findings for swimming pools and water storage tanks on sites zoned RMZ (Resource Management), of Subsection E, Findings required for approval, of Section 35.472.110, Land Use Permits, of Chapter 35.472, Permit Review and Decisions, so that Subsection 35.472.110.E reads as follows:

- E. Findings required for approval.** A Land Use Permit application shall be approved or conditionally approved only if the Director first makes all of the following findings:

1. Findings for all Land Use Permits:

- a. The proposed development:
 - (1) Conforms to the applicable provisions of the Comprehensive Plan including the Montecito Community Plan; and
 - (2) The applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.491 (Nonconforming Uses, Structures, and Lots).
- b. The proposed development is located on a legally created lot.
- c. The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement and processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Chapter 35.491 (Nonconforming Uses, Structures, and Lots).

SECTION 5:

Except as amended by this Ordinance, Division 35.2 of Section 35-2, the Santa Barbara County

Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 6:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 15th day of April, 2008, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DANIEL J. WALLACE
County Counsel

By _____
Deputy County Counsel

SANTA BARBARA MONTECITO PLANNING COMMISSION
Staff Report for Resource Management Zone Development Plan Requirement
Ordinance Amendment

Hearing Date: January 16, 2008

Development Services Director: Dianne Black

Staff Report Date: December 28, 2007

Staff: Noel Langle

Case Nos.: 08ORD-00000-00002

Phone No.: 805.568.2067

Environmental Document: CEQA Guidelines Section 15061(b)(3)

1.0 REQUEST

Hearing on the request of the Planning and Development Department that the Montecito Planning Commission consider and adopt a recommendation to the Board of Supervisors that they adopt an ordinance (Case No. 08ORD-00000-00002) amending the text of Section 35.422.030 (Resource Protection Zone Allowable Land Uses), Section 35.472.080 (Development Plans) and Section 35.472.110 (Land Use Permits), of Section 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code as set forth in Attachment C that would require a Development Plan for proposed development located in the Resource Management Zone.

2.0 RECOMMENDATION AND PROCEDURES:

Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 08ORD-00000-00002 based upon the ability to make the appropriate findings.

Your Commission's motion should include the following:

- Adopt the findings for approval and recommend that the Board of Supervisors adopt the findings for approval of the proposed amendment (Attachment A);
- Recommend that the Board of Supervisors find that this amendment is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B); and,
- Recommend that the Board of Supervisors adopt 08ORD-00000-00002, an amendment to Section 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

Please refer the matter to staff if your Commission takes other than the recommended action for the development of appropriate materials.

3.0 JURISDICTION

This project is being considered by the Montecito Planning Commission in compliance with Section 65855 of the Government Code and the Section 35.494.050 of the Montecito Land Use and Development Code. The Government Code and the Montecito Land Use and Development Code require that the Montecito Planning Commission, as the designated planning agency for the Montecito Community Plan area, review and consider proposed ordinance amendments and provide a recommendation to the Board of Supervisors.

4.0 issue summary

Proposed structures located within the Resource Management Zone (RMZ) in the Montecito Community Plan area currently only require the approval of a ministerial Land Use Permit unless (1) the proposed structure is 20,000 or more square feet in gross floor area or is an attached or detached addition that together with existing structures on the same lot will total 20,000 square feet or more in gross floor area, or (2) a discretionary permit (e.g., a Conditional Use Permit) is otherwise required. However, proposed structures located within the RMZ outside the Montecito Community Plan area require the approval of a Development Plan in all instances before a Land Use Permit or Zoning Clearance may be issued.

On August 29, 2007, at the request of the Montecito Planning Commission, the Planning and Development Department conducted a workshop with the Montecito Planning Commission and the Montecito Board of Architectural Review regarding the rules and regulations that apply to property zoned RMZ, and the challenges that the Montecito Planning Commission and the Montecito Board of Architectural Review face in reviewing applications for development located in the RMZ area. During this workshop, members of the Montecito Planning Commission expressed support for amending the Montecito Land Use and Development Code to require the approval of a Development Plan for proposed structures located in the RMZ, consistent with the remainder of the County.

There is no land zoned RMZ located within the Coastal Zone portion of the Montecito Community Plan area, so this amendment will not require certification by the Coastal Commission, such that it will be in effect 30 days after adoption by the Board of Supervisors.

5.0 PROJECT INFORMATION AND ANALYSIS

5.1 Background

The RMZ was part of the original Article IV Montecito Zoning Ordinance (the predecessor to the Montecito Land Use and Development Code) that was adopted in 1983. From 1983 to the present this zone has not included the requirement that all structures require the approval of a Development Plan. Article III, the zoning ordinance for the inland portion of the County outside the Coastal Zone has always included the requirement for approval of a Development Plan on property zoned RMZ since its adoption in 1984.

Through the adoption of the Montecito Community Plan in 1991 a large portion of the planning area north of Mountain Drive was designated Mountainous Area due to such factors as:

- Reduced fire fighting capability in a designated high fire hazard area.
- Steep slopes within a watershed area.
- Constrained traffic circulation.
- Presence of chaparral and dense vegetation.
- Desire to protect the open land characteristics including the mountain backdrop that was seen as a community and regional asset.

Companion to this designation under the Community Plan was the zoning of this area to RMZ. The purpose and intent of the RMZ is to protect lands that are unsuited for intensive development, limit

development because of extreme fire hazards, minimum services, and/or environmental constraints, encourage the preservation of these areas for uses including grazing, scientific and educational study, and only allow for limited residential uses. This zone is applied to land that exhibits one or more of the following criteria:

- Slopes that exceed 40 percent.
- Valleys surrounded by slopes that exceed 40 percent.
- Isolated table lands surrounded by slopes that exceed 40 percent.
- Areas with outstanding resource values (e.g., environmentally sensitive habitat areas, watersheds)

The August 2007 discussion of RMZ regulations by the Montecito Planning Commission and the Montecito Board of Architectural Review highlighted the sensitivity of the RMZ area and that a ministerial permit process may be unsuited for protecting the area from inappropriate development. At this workshop Planning and Development staff presented information regarding the number of developed versus undeveloped parcels in the RMZ area; this information is summarized in the table below.

| RMZ Parcels | Private Ownership | Public Ownership | Total |
|---------------------|--------------------------|-------------------------|--------------|
| Developed Parcels | 50 | 1 | 51 |
| Undeveloped Parcels | 63 | 41 | 104 |
| Total | 113 | 42 | 155 |

This discussion lead the Montecito Planning Commission to request that the Planning and Development Department bring back an ordinance amendment requiring a Development Plan for all structures in the RMZ for their review and recommendation to the Board of Supervisors. Shifting from a Land Use Permit to a Development Plan requirement will provide for discretionary analysis of applications for structures which will be reviewed in compliance with the requirements of the California Environmental Quality Act. This will also shift the jurisdiction from the Director to the Montecito Planning Commission who will be the review authority for all development plan applications in the RMZ area. Per the table above, this will affect future permit processing for 113 privately held parcels zoned RMZ.

5.2 Ordinance Discussion

Section 35.422.030 of the Montecito LUDC establishes the permit process requirement for applications for structures located on property zoned RMZ. The draft ordinance (Attachment C) proposes to revise this section to require that a Development Plan be approved for all structures instead the existing language that only requires the approval of a Development Plan for structures when the proposed is 20,000 or more square feet in gross floor area or is an attached or detached addition that together with existing structures on the same lot will total 20,000 square feet or more in gross floor area, and a discretionary permit (e.g., a Conditional Use Permit) is otherwise required.

The draft ordinance also proposes to move the special findings required for approval of Land Use Permits for swimming pools and water storage tanks on sites zoned RMZ from Section 35.472.110 (Land Use Permits) to Section 35.472.080 (Development Plans) so that these findings are made

coincident with the approval of the Development Plan. These special findings (shown below) were added in December 2006 when the Board of Supervisors, after an affirmative recommendation from your Commission, amended the Montecito Land Use and Development Code to allow swimming pools and water tanks within the RMZ as structures accessory to a residential use of the property provided these findings were able to be made. These findings are:

- The project will require only minimal alteration of the topography.
- The project will not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact on downstream water courses or water bodies.
- The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.
- The project will be screened from public view.

These findings would be required to be made in addition to the findings that are normally required in order to approve a Development Plan:

- The site for the proposed project is adequate in terms of location, physical characteristics, shape, and size to accommodate the type of use and the level of development proposed.
- Adverse impacts will be mitigated to the maximum extent feasible.
- Streets and highways will be adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.
- There will be adequate public services, including fire protection, police protection, sewage disposal, and water supply to serve the proposed project.
- The proposed project will not be detrimental to the comfort, convenience, general welfare, health and safety of the neighborhood and will not be incompatible with the surrounding area.
- The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan including the Montecito Community Plan.
- The proposed project will not adversely impact recreational facilities and uses.
- In designated rural areas, the use will be compatible with and subordinate to the rural and scenic character of the area.
- The project will not conflict with any easements required for public access through, or public use of a portion of the subject property.

6.0 ENVIRONMENTAL REVIEW

The proposed amendment is recommended to be determined to be exempt from environmental review pursuant to Section 15061(b)(3) of the California Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15061(b)(3), the general rule exemption, states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment that the activity is not subject to CEQA. No significant environmental impacts would occur as a result of this ordinance amendment as explained in Attachment B.

7.0 POLICY CONSISTENCY

Adoption of the proposed ordinance amendment will not result in any inconsistencies with the adopted

policies and development standards of the County's Comprehensive Plan and the Montecito Community Plan. In order to approve any Development, the proposed development still must be found consistent with the Comprehensive Plan and the Montecito Community Plan.

8.0 ORDINANCE COMPLIANCE

The proposed ordinance amendment is consistent with the remaining portions of the Montecito LUDC that would not be revised by this amendment. In order to approve a Development Plan it still must be determined that the project is consistent with the whole of the Montecito LUDC.

9.0 PROCEDURES

The Planning Commission may recommend approval, approval with revisions, or denial of staff's recommendations for the proposed amendment to the Montecito LUDC.

10.0 APPEALS PROCEDURE

Ordinance amendments are automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

11.0 ATTACHMENTS

- A. Findings
- B. CEQA Exemption
- C. 08ORD-00000-00002